

AO 440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

Southern

District of

New York

MARC S. KIRSCHNER,
as Trustee of the Refco Litigation Trust
Plaintiff,

SUMMONS IN A CIVIL ACTION

V.

THOMAS H. LEE PARTNERS, L.P.; THOMAS H.
LEE ADVISORS, LLC; THL MANAGERS V, LLC;
THL EQUITY ADVISORS V, L.P.; THOMAS H.
LEE EQUITY FUND V, L.P.; THOMAS H. LEE
PARALLEL FUND V, L.P.; THOMAS H. LEE
EQUITY (CAYMAN) FUND V, L.P.; THOMAS H.
LEE INVESTORS LIMITED PARTNERSHIP;
1997 THOMAS H. LEE NOMINEE TRUST;
THOMAS H. LEE; DAVID V. HARKINS; SCOTT
L. JAECKEL; and SCOTT A. SCHOEN,
Defendants

CASE NUMBER:

07 CIV 7074

TO: (Name and address of Defendant)

SEE ATTACHED RIDER

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Scott A. Edelman
Millbank, Tweed, Hadley & McCloy LLP
1 Chase Manhattan Plaza
New York, NY 10005

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

J. MICHAEL McMAHON

CLERK

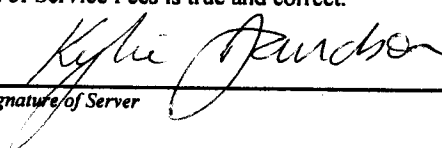
Marcos Quintero

DATE

AUG 08 2007

(By) DEPUTY CLERK

AO 440 (Rev. 8/01) Summons in a Civil Action

| RETURN OF SERVICE | | |
|---|--------------------------------|---------------------|
| Service of the Summons and complaint was made by me ⁽¹⁾ | DATE August 23, 2007 | |
| NAME OF SERVER (<i>PRINT</i>) Kylie Davidson | TITLE Attorney | |
| <i>Check one box below to indicate appropriate method of service</i> | | |
| <div style="margin-bottom: 10px;"><input type="checkbox"/> Served personally upon the defendant. Place where served:</div> <div style="margin-bottom: 10px;"><input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left:</div> <div style="margin-bottom: 10px;"><input type="checkbox"/> Returned unexecuted:</div> <div><input checked="" type="checkbox"/> Other (specify): Personally served Defendants' agent, their attorney Seth Goodchild, Esq. at Weil, Gotshal & Manges LLP, pursuant to Rule 4(e)(2) of the Federal Rules of Civil Procedure.</div> | | |
| STATEMENT OF SERVICE FEES | | |
| TRAVEL | SERVICES | TOTAL \$0.00 |
| DECLARATION OF SERVER | | |
| <p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> <div style="display: flex; justify-content: space-between; align-items: flex-end; margin-top: 20px;"> <div style="text-align: center;"> <p>Executed on <u>8/27/07</u></p> <p><small>Date</small></p> </div> <div style="text-align: center;"> <p></p> <p><small>Signature of Server</small></p> </div> </div> <div style="text-align: center; margin-top: 20px;"> <p><u>1 Chase Manhattan Plaza, New York, N.Y. 10005</u></p> <p><small>Address of Server</small></p> </div> | | |

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

RIDER TO SUMMONS

| | |
|---|---|
| THOMAS H. LEE PARTNERS, L.P. 75 State Street Suite 2600 Boston, MA 02109 | THOMAS H. LEE ADVISORS, LLC 75 State Street Suite 2600 Boston, MA 02109 |
| THL MANAGERS V, LLC 75 State Street Suite 2600 Boston, MA 02109 | THL EQUITY ADVISORS V, L.P. 75 State Street Suite 2600 Boston, MA 02109 |
| THOMAS H. LEE EQUITY FUND V, L.P. 75 State Street Suite 2600 Boston, MA 02109 | THOMAS H. LEE PARALLEL FUND V, L.P. 75 State Street Suite 2600 Boston, MA 02109 |
| THOMAS H. LEE EQUITY (CAYMAN) FUND V, L.P. 75 State Street Suite 2600 Boston, MA 02109 | THOMAS H. LEE INVESTORS LIMITED PARTNERSHIP 75 State Street Suite 2600 Boston, MA 02109 |
| 1997 THOMAS H. LEE NOMINEE TRUST 75 State Street Suite 2600 Boston, MA 02109 | THOMAS H. LEE c/o Thomas H. Lee Partners, L.P. 75 State Street Suite 2600 Boston, MA 02109 |
| DAVID V. HARKINS c/o Thomas H. Lee Partners, L.P. 75 State Street Suite 2600 Boston, MA 02109 | SCOTT L. JAECKEL c/o Thomas H. Lee Partners, L.P. 75 State Street Suite 2600 Boston, MA 02109 |
| SCOTT A. SCHOEN c/o Thomas H. Lee Partners, L.P. 75 State Street Suite 2600 Boston, MA 02109 | |

Fishman, Eric

From: seth.goodchild@weil.com
Sent: Monday, August 20, 2007 12:42 PM
To: Edelman, Scott
Cc: Davidson, Kylie; Fishman, Eric; Tomback, Andrew E.; greg.danilow@weil.com; richard.davis@weil.com
Subject: Acceptance of Service -- Kirschner v. THLP, 07 Civ. 7074

Scott,

In response to your email to Greg and Rich of this morning, we will accept service on behalf of all the defendants in this action, including both the entities outlined in your prior email as well as the four individuals (subject, of course, to preservation of defenses). To the extent you have been planning to serve the four individuals personally, please let us know immediately as we believe that would be inappropriate given our willingness to accept service on their behalf.

Thanks,

Seth

Seth Goodchild, Esq.
Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153
(212) 310-8211
fax: 212-310-8007
cell phone: 973-919-2282

< END >

The information contained in this email message is intended only for use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by email (postmaster@weil.com), and destroy the original message. Thank you

8/27/2007

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SCOTT A. EDELMAN

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FAX: 852-2840-0792

SINGAPORE

65-6428-2400

FAX: 65-6428-2500

August 23, 2007

VIA HAND DELIVERY

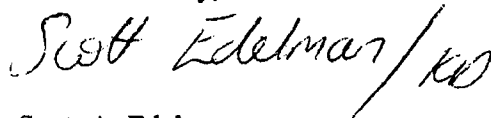
Seth Goodchild, Esq.
Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, New York 10153

Re: *Kirschner v. Thomas H. Lee Partners, L.P., et al.*, No. 07-7074 (S.D.N.Y.)

Dear Seth,

We write as counsel to Marc Kirschner, in his capacity as Trustee to the Refco Litigation Trust, the Plaintiff in the above-captioned lawsuit filed against your clients (the "Defendants") in the Southern District of New York. As per your e-mail to me of August 20, 2007 in which you stated that you would accept service on behalf of all the Defendants (in lieu of personal service on the Defendants themselves), and pursuant to Rule 4(e)(2) of the Federal Rules of Civil Procedure, please find enclosed copies of the Summons, Complaint, and applicable Electronic Case Filing materials.

Yours sincerely,



Scott A. Edelman

Encls.